

**REMARKS**

In the Office Action of April 29, 2004, the Examiner objected to the specification because of informalities; rejected claims 1, 2, 4, 5, 13-17, 19, 22, 23, 25, and 26 under 35 U.S.C. § 102(e) as being anticipated by US Patent No. 6,601,563 to Funke et al.; rejected claims 1, 13, 14, and 22 under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 4,696,265 to Nohira; rejected claims 3, 6, 7, 10, 11, 18, 21, 24, 27, 28, 31, and 32 under 35 U.S.C. § 103(a) as being upatentable over Funke et al. in view of US Patent No. 4,593,658 to Moloney.

Applicant wishes to thank the Examiner for the personal interview of July 21,2004. This Reply is consistent with the issues discussed and the agreements reached during the interview.

Applicant has cancelled claims 2, 5, 6, 15-17, 23, 25, and 26, has amended claims 1, 3, 4, 8-11, 14, 16, 18-21, and 29-32, and has added new claims 34-42 to further claim aspects of Applicant's invention. Accordingly, claims 1, 3, 4, 7-14, 18-22, 24, and 27-42 are pending in this application.

Regarding the objection to the specification, Applicant has amended the specification as suggested by the Examiner. Specifically, paragraph 65 has been amended replacing the term "patter" with the term "pattern." In addition, paragraph 69 has been amended replacing the term "an" in line 4 with the term "a." Accordingly, Applicant requests the objection to the specification be withdrawn.

Applicant respectfully traverses the 35 U.S.C. § 102(e) rejection of claims 1, 2, 4, 5, 13-17, 19, 22, 23, 25, and 26 for at least the reason that Funke et al. fails to disclose every claim element. For example, independent claims 1 and 22 disclose a combination of elements including, among other things, a fluid passageway pressurized

by the piezo electric device to thereby cause movement of a piston. Further, independent claim 14 discloses a combination of steps including, among other things, pressurizing a fluid with the at least one piezo electric device. As agreed during the interview, Funke et al. fails to disclose at least these claim elements.

Applicant has amended claim 4 to incorporate the subject matter of claim 6, which was allowable over Funke et al. Applicant has, likewise, amended claim 19 to include the subject matter of claim 18, which was allowable over Funke et al.

Because Funke et al. does not disclose all of the elements of claims 1, 4, 13, 14, 19, and 22, the rejection under section 102(e), with respect to claims 1, 4, 13, 14, 19, and 22 is improper and should be withdrawn.

Applicant respectfully traverses the 35 U.S.C. § 102(b) rejection of claims 1, 13, 14, and 22, for at least the reason that Nohira fails to disclose every claim element. As described above, independent claims 1 and 20 disclose a combination of elements including, among other things, a fluid passageway pressurized by a piezo electric device to thereby cause movement of a piston. Further, independent claim 14 discloses a combination of steps including, among other things, pressurizing a fluid with the at least one piezo electric device. As agreed during the interview, Nohira fails to disclose at least these claim elements. Accordingly, the rejection under section 102(e) of claims 1, 13, 14, and 22 is improper and should be withdrawn.

Applicant respectfully traverses the 35 U.S.C. § 103(a) rejection of claims 3, 6, 7, 10, 11, 18, 21, 24, 27, 28, 31 as being unpatentable over Funke et al. in view of Moloney. Applicant submits that the rejection of claims 3, 6, 7, 10, 11, 18, 21, 24, 27, 28, 31 under 35 U.S.C. § 103(a) over Funke et al. is improper, because Funke et al. can

qualify as prior art only under 35 U.S.C. § 102(e) and because both Funke et al. and the instant application were subject to an obligation of assignment to the same entity at the time the invention of the instant application was made. As recited in MPEP 706.02(I), "Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102..., shall not preclude patentability under this section [35 U.S.C. § 103] where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." See also 35 U.S.C. § 103(c). Accordingly, the rejection of claims 3, 6, 7, 10, 11, 18, 21, 24, 27, 28, 31 under 35 U.S.C. § 103(a) should be withdrawn.

The Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization of the Office Action.

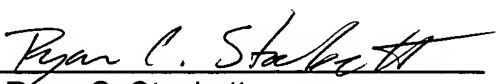
In view of the foregoing amendments and remarks, Applicant respectfully requests the reconsideration of this application and the timely allowance of the pending claims.

If there is any fee due in connection with the filing of this Preliminary Amendment, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: July 29, 2004

By:   
Ryan C. Stockett  
Reg. No. 53,642